

DECLARATION OF EMERGENCY

**Department of Health and Hospitals
Bureau of Health Services Financing
and
Office for Citizens with Developmental Disabilities**

**Home and Community-Based Services Waivers
New Opportunities Waiver
Emergency Opportunities
(LAC 50: XXI.13709)**

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities amend LAC 50:XXI.13709 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities amended the provisions governing the New Opportunities Waiver (NOW) in order to clarify the provisions of the waiver and to add the following new services to the waiver program: 1) housing stabilization transition; 2) housing stabilization; 3) remote assistance; and 4) adult companion care (*Louisiana Register*, Volume 40, Number 1).

The department has now determined that it is necessary to amend the provisions governing the allocation of waiver

opportunities in the NOW to revise the criteria for emergency waiver services, simplify the allocation process for NOW emergency opportunities, and facilitate faster access to NOW emergency services for qualified individuals. This action is being taken to avoid imminent peril to the health and welfare of NOW participants in crisis situations who are in dire need of waiver services. It is estimated that implementation of this Emergency Rule will have no fiscal impact on expenditures in the Medicaid Program for state fiscal year 2015-2016.

Effective October 1, 2015, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the allocation of waiver opportunities for NOW services.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XXI. Home and Community Based Services Waivers
Subpart 11. New Opportunities Waiver

Chapter 137. General Provisions

§13709. Emergency Opportunities

A. Requests for emergency waiver services shall be made through the local ~~governmental~~ governing entities (LGEs) ~~(human services districts or human services authorities)~~ responsible for coordination of services for persons with developmental disabilities. When a request for emergency services is received, the ~~human services district or human services authority~~ LGE shall complete a priority assessment that incorporates standardized

operational procedures with standardized assessment tools to determine the priority of the individual's need in a fair and consistent manner.

B. To be considered for emergency waiver supports, the individual must need long-term supports, not temporary or short-term supports. ~~All of the following criteria shall be used in the determination of priority for an emergency waiver opportunity.~~

~~1. Urgency of Need. The individual will require further assessment for emergency services if one of the following situations exists:~~

~~_____ a. the caregiver is unable or unwilling to continue providing care;~~

~~_____ b. death of the caregiver and there are no other available supports;~~

~~_____ c. the caregiver is incapacitated and there are no other available supports due to physical or psychological reasons;~~

~~_____ d. intolerable temporary placement, immediate need for new placement; or~~

~~_____ e. other family crisis exists with no caregiver support available.~~

~~_____ 2. Level of Risk. The individual will be assessed to determine the risk to his/her health and safety in areas of daily living, health care and behavioral supports if an emergency waiver~~

~~opportunity is not made available. Level of risk will be categorized as follows.~~

~~a. High Risk. The person's health or safety is at imminent risk without the requested developmental disability supports.~~

~~b. Moderate Risk. The person has a potential risk of losing his/her current level of health or safety without the requested developmental disability supports.~~

~~c. Low Risk. The person is at little or no risk of losing his/her current level of health or safety without the requested developmental disability supports.~~

~~3. Level of Unmet Needs. The person's needs shall be identified and assessed to determine the level to which the needs are being met.~~

~~4. Adaptive Service Level Determination. The person's service needs will be determined utilizing a standardized rating based on adaptive behavior levels.~~

~~5. Financial Resources Determination. Individual or family income shall be considered to determine whether it is adequate to meet unmet needs.~~ 1. - 5. Repealed.

~~C. For individuals who appear to meet the criteria for an emergency waiver opportunity, the RAU will forward the Priority Ranked Score and all supporting documentation to the DHH emergency review team coordinator at OCDD in Baton Rouge to complete the programmatic determination process.~~ Effective for dates of service

on or after October 1, 2015, an individual must meet the required criteria based on urgency of need as defined in the screening tool(s) approved by OCDD in order to qualify for emergency waiver services.

D. For individuals who meet the criteria for an emergency waiver opportunity, the LGE will forward a copy of the screening tool(s) and all of the additional documents required for processing to the appropriate DHH emergency review manager at OCDD who will verify the applicant's request for services registry date and assign priority. Emergency waiver opportunities will be allocated on a first come, first served basis based on each individual's request for services registry date. The LGE will keep all of the supporting documentation used to determine whether an applicant has met emergency waiver criteria.

E. A uniform process, designed by OCDD, will be applied in instances when there are more requests than available opportunities for emergency waiver services. This process does not determine eligibility for services and cannot be appealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 31:2901 (November 2005), amended by the Department of Health and Hospitals, Bureau of Health Services

Financing and the Office for Citizens with Developmental Disabilities, LR 40:71 (January 2014), LR 41:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Kathy H. Kliebert

Secretary